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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,332	09/23/2003	Gabriel Wechter	200311662	9280

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

BLAIR, DOUGLAS B

ART UNIT	PAPER NUMBER
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2142

MAIL DATE	DELIVERY MODE
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05/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/667,332

Applicant(s)

WECHTER ET AL.

Examiner

Douglas B. Blair

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/23/03 and 4/6/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The applicant's specification does not describe what a computer readable medium comprises. Paragraphs 3 and 52 of the specification reference the computer readable medium however they provide no description. For examination purposes it will be assumed that the claimed computer readable medium refers to the memory/storage referred to in paragraph 46 and Figure 3.

Incorporation By Reference

2. The attempt to incorporate subject matter into this application by reference to the U.S. application entitled "Method and System for Determining a Network Management Scalability Threshold of a Network Manager with Respect to a Network" is ineffective because the application number of this application has not been included and therefore the specification does not "clearly identify the referenced patent, application, or publication" as required by 37 CFR 1.57(b)(2).

3. The incorporation by reference will not be effective until correction is made to comply with 37 CFR 1.57(b), (c), or (d). If the incorporated material is relied upon to meet any outstanding objection, rejection, or other requirement imposed by the Office, the correction must be made within any time period set by the Office for responding to the objection, rejection, or other requirement for the incorporation to be effective. Compliance will not be held in abeyance

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with respect to responding to the objection, rejection, or other requirement for the incorporation to be effective. In no case may the correction be made later than the close of prosecution as defined in 37 CFR 1.114(b), or abandonment of the application, whichever occurs earlier.

4. Any correction inserting material by amendment that was previously incorporated by reference must be accompanied by a statement that the material being inserted is the material incorporated by reference and the amendment contains no new matter. 37 CFR 1.57(f).

Claim Interpretation

5. For examination purposes, the “means for receiving” in claim 12 is interpreted as the computer 306 in Figure 3 embodying the “automatic partitioning mechanism” mentioned in paragraph 16 and the “means for connecting” in claim 12 is interpreted as the hardware embodying the interface 308 in Figure 3.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 4-7, 10-13, 15-18, 21-24, 26-29, and 32-33 are rejected under 35

U.S.C. 102(b) as being anticipated by U.S. Patent Number 5,805,819 to Chin et al. (Part of IDS filed 4/6/2005).

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8. As to claim 1, Chin teaches a method for managing a network of nodes, comprising: receiving information identifying the nodes of the network (col. 5, lines 33-35); and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 35-36), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 9, lines 12-28, the “typical computer display” is the “discovery agent”).

9. As to claim 2, Chin teaches the method of claim 1, wherein the nodes are organized in groups and the grouping comprises: evaluating each group with the threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 9, lines 12-19); and dividing each group exceeding the threshold into new groups (col. 9, lines 20-28).

10. As to claim 4, Chin teaches the method of claim 2, comprising performing the evaluating and dividing until all groups do not exceed the threshold (col. 9, lines 20-28).

11. As to claim 5, Chin teaches the method of claim 4, comprising combining two of the groups to form a single group that does not exceed the threshold (col. 10, lines 26-34).

12. As to claim 6, Chin teaches the method of claim 5, comprising repeating the combining until no further combinations not exceeding the threshold are possible (col. 10, lines 26-44).

13. As to claim 7, Chin teaches the method of claim 5, wherein the two groups are the two smallest groups of all the groups (col. 10, lines 26-34).

14. As to claim 10, Chin teaches the method of claim 7, wherein the two groups have at least one node in common (col. 10, lines 51-65).

15. As to claim 11, Chin teaches the method of claim 10, wherein the at least one node in common is a router (col. 10, lines 51-65).

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16. As to claim 12, Chin teaches a system for managing a network of nodes, comprising: means for receiving (col. 4, line 39, the processing means) information identifying the nodes of the network (col. 5, lines 33-35), and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 35-36), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 9, lines 12-28, the “typical computer display” is the “discovery agent”); and means for connecting to the network (col. 4, line 38, the communication means).

17. As to claims 13, 15-18, and 21-22, they feature a system that implements the method of claims 2, 4-7, and 10-11. Therefore they are rejected for the same reasons as the system of claim 12 and they method of claims 2, 4-7, and 10-11.

18. As to claims 23-24, 26-29, and 32-33, they feature a medium that implements the method of claims 1-2, 4-7, and 10-11 and are rejected for the same reasoning as claims 1-2, 4-7 and 10-11.

19. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 12-15, and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 7,159,036 to Hinchliffe et al.

20. As to claim 1, Hinchliffe teaches a method for managing a network of nodes, comprising: receiving information identifying the nodes of the network (col. 5, lines 36-44); and grouping the

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nodes into zones as a function of relationships among the nodes (col. 5, lines 45-48), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 5, lines 56-64).

21. As to claim 2, Hinchliffe teaches the method of claim 1, wherein the nodes are organized in groups and the grouping comprises: evaluating each group with the threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 5, lines 56-64); and dividing each group exceeding the threshold into new groups (col. 5, lines 56-64).

22. As to claim 3, Hinchliffe teaches the method of claim 2, wherein the groups are subnets, segments of subnets, or subsets of segments (col. 7, lines 58-66).

23. As to claim 4, Hinchliffe teaches the method of claim 2, comprising performing the evaluating and dividing until all groups do not exceed the threshold (col. 5, lines 56-64).

24. As to claim 12, Hinchliffe teaches a system for managing a network of nodes, comprising: means for receiving (col. 5, line 26, the source computer) information identifying the nodes of the network (col. 5, lines 36-44), and grouping the nodes into zones as a function of relationships among the nodes (col. 5, lines 45-48), such that each zone satisfies a threshold that is based on an operational capacity of a discovery agent assigned to discover the network (col. 5, lines 56-64); and means for connecting to the network (col. 8, lines 22-23, the network interface card).

25. As to claims 13-15, they feature a system that implements the method of claims 2-4.

Therefore they are rejected for the same reasons as the system of claim 12 and they method of claims 2-4.

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26. As to claims 23-26, they feature a medium that implements the method of claims 1-4 and are rejected for the same reasoning as claims 1-4.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claims 8-9, 19-20, and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,805,819 to Chin et al. in view of U.S. Patent Number 7,159,036 to Hinchliffe et al.

29. As to claim 8, Chin teaches the method of claim 7, wherein the two groups are the smallest groups sharing a common network entity (col. 10, lines 45-46), however Chin does not explicitly teach the groups being a part of a subnet.

Hinchliffe teaches grouping nodes based on their subnet (col. 7, lines 58-59).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Chin regarding the combination of groups with the teachings of Hinchliffe regarding grouping nodes based on their subnet because the groups sharing a common network entity could reasonably be part of the same subnet.

30. As to claim 9, it is rejected to similar reasons as those presented in the rejection of claim 10 based on Chin.

31. As to claims 19-20 and 30-31, they are rejected for the same reasons as claims 8-9.

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Conclusion

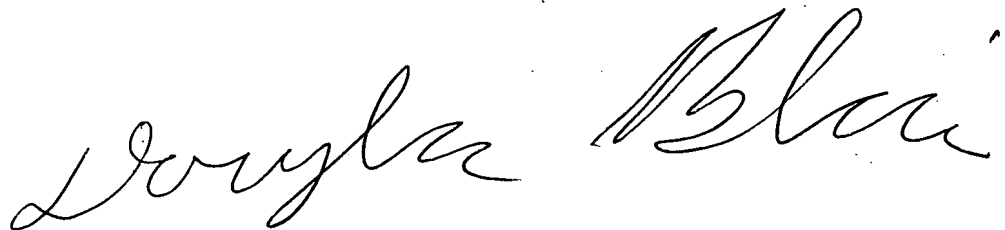
32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas B. Blair whose telephone number is (571) 272-3893.

The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Douglas Blair

A handwritten signature in cursive script that reads "Douglas Blair". The signature is written in dark ink and is positioned to the right of the printed name "Douglas Blair".